IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 17611 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE D.H.WAGHELA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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RAMESHBHAI MAVJIBHAI MANANI - Petitioner(s)
Versus
THE STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :
MR DJ CHAUHAN for Petitioner(s) : 1,
MS.MD MEHTA AGP for Respondent(s) : 1 - 2.

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CORAM : HONOURABLE MR.JUSTICE D.H.WAGHELA
Date : 14/08/2007

ORAL JUDGMENT

1. The petitioner, approaching this Court under Article 226 of the Constitution, is aggrieved by the notice of attachment dated 20.12.2001 and the final order dated 07.04.2006 of the Deputy Collector, Stamp Duty Valuation Organization, Rajkot rejecting the so-called appeal of the petitioner only on the ground of

delay. It was submitted by learned counsel Mr.D.J. Chauhan that the proceedings pursuant to execution of sale deed dated 29.05.2000 of immovable property purchased by the petitioner, as held under the provisions of Section 32-A of the Bombay Stamp Act, 1958 (for short, “the Act”), were without notice to the petitioner and without complying with the Rules made therefor. He submitted that the order dated 30.04.2001 made under the provisions of Section 32-A was not duly served upon the petitioner and, upon the aforesaid notice dated 20.12.2001 having been issued, the petitioner had approached in the form of so-called Appeal No.448 of 2002 for making a reference under the provisions of Section 32-B of the Act and also deposited the requisite amount of Rs.7,395/- on 28.12.2001. However, that so-called appeal was dismissed by the impugned order dated 07.04.2006 as aforesaid and even a copy of that order was not served upon the petitioner. Therefore, after obtaining a copy on 06.05.2007, the petitioner had approached this Court for a decision of the reference on merits.

2. Learned A.G.P. Ms.M.D. Mehta, appearing for the respondents, fairly conceded that, though there was obvious delay in making an application for a reference, it could have and ought to have been ignored in view of the deposit having been

made and accepted and in view of several recent judgments of this Court. Therefore, without entering into any controversy about the proper service of notices and orders upon the petitioner, it was submitted that the Chief Controlling Revenue Authority may be directed to consider the case of the petitioner on merits in accordance with law after affording to him an opportunity of being heard.

3. Accordingly, the petition is partly allowed with the direction that the Collector concerned shall, in terms of the provisions of Section 32-B of the Act, make a statement of the case of the petitioner and refer it to the Chief Controlling Revenue Authority under the provisions of Section 32-B of the Act and upon such reference being made, case of the petitioner along with the so-called appeal shall be considered and decided by the Chief Controlling Revenue Authority in accordance with law after affording to the petitioner an opportunity of being heard and it shall not be dismissed only on the ground of delay. The impugned order dated 07.04.2006 is quashed. In view of the long lapse of time, aforesaid proceedings shall be conducted and concluded as expeditiously as practicable. Rule is made absolute accordingly with no order as to costs.

(D.H.WAGHELA, J.)

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